

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DEMARIO LINDSEY

PLAINTIFF

v.

4:19cv00293-KGB-JJV

KEVIN NEAL, Lieutenant,
Faulkner County Sheriff's Office; *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Kristine G. Baker. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.

3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Demario Lindsey (“Plaintiff”) filed a *pro se* Complaint pursuant to 42 U.S.C. § 1983 (Doc. No. 2), and an Application to Proceed Without Prepayment of Fees and Affidavit (“Application”) (Doc. No. 1). On April 25, 2019, I denied Plaintiff’s Application because it did not include a Calculation of Initial Payment of Filing Fee sheet, prepared and signed by an authorized official of the detention center, or a certified copy of his trust fund account statement. (Doc. No. 3.) On that same date, I ordered Plaintiff to submit either the statutory filing fee of \$400.00¹ or a properly completed Application, with the required calculation sheet, within thirty (30) days; Plaintiff was warned that if he did not do one or the other, this case could be dismissed without prejudice. (*Id.*)

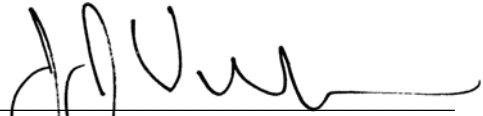
The May 27, 2019 deadline has passed, and Plaintiff has not complied with or otherwise responded to my April 25, 2019 Order. Accordingly, Plaintiff’s Complaint should be dismissed without prejudice. To proceed with this case, Plaintiff may file either an Application to Proceed Without Prepayment of Fees and Affidavit or the filing fee with his objections to this recommendation.

¹ Effective May 1, 2013, the cost for filing a new civil case is \$400. The increase is due to a new \$50 administrative fee, which does not apply to persons granted *in forma pauperis* status under 28 U.S.C. § 1915.

IT IS, THEREFORE, RECOMMENDED that:

1. Plaintiff's Complaint (Doc. No. 2) be DISMISSED without prejudice.
2. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting this recommendation and the accompanying Judgment would not be taken in good faith.

DATED this 3rd day of June 2019.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE